

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SETH BURGETT,

Plaintiff,

v.

JASON HELLICKSON, SUSAN HELLICKSON,
AND DOES 1-100,

Defendants.

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Case No. 4:16-cv-00622-AGF

DEFENDANTS' MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION
OR, ALTERNATIVELY, TO STAY THESE PROCEEDINGS

COME NOW Defendants Jason Hellickson and Susan Hellickson (the “Hellicksons”), pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(3) and 12(h)(3), and move to dismiss Plaintiff’s Complaint for lack of subject matter jurisdiction or, alternatively, to stay these proceedings. As set forth more fully in the attached Memorandum, which is supported by the Affidavit of Jason Hellickson, Plaintiff has not and cannot plead sufficient facts to establish diversity jurisdiction. Regardless, under the *Colorado River* abstention doctrine, these proceedings should be stayed while parallel proceedings in Iowa are completed. Accordingly, the Hellicksons respectfully request that this Court dismiss Plaintiff’s Complaint for lack of subject matter jurisdiction, or alternatively, stay this action during the pendency of the Iowa proceedings, and for such other relief as the Court deems just and proper.

Respectfully submitted,

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Attorneys for Defendants,
Jason Hellickson and Susan Hellickson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of July, 2016, the foregoing was filed with the Clerk of Court electronically, to be served by operation of the Court's electronic filing system upon all parties of record.

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